

FIRST REGULAR SESSION

[RECORRECTED]

# HOUSE BILL NO. 697

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CORLEW.

1314H.02I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 490.065, RSMo, and to enact in lieu thereof one new section relating to expert witnesses.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 490.065, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 490.065, to read as follows:

490.065. 1. [In any civil action, if scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise.

2. Testimony by such an expert witness in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.

3. The facts or data in a particular case upon which an expert bases an opinion or inference may be those perceived by or made known to him at or before the hearing and must be of a type reasonably relied upon by experts in the field in forming opinions or inferences upon the subject and must be otherwise reasonably reliable.

4. If a reasonable foundation is laid, an expert may testify in terms of opinion or inference and give the reasons therefor without the use of hypothetical questions, unless the court believes the use of a hypothetical question will make the expert's opinion more understandable or of greater assistance to the jury due to the particular facts of the case.] **A witness who is**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 qualified as an expert by knowledge, skill, experience, training, or education may testify  
17 in the form of an opinion or otherwise if:

18 (1) The expert's scientific, technical, or other specialized knowledge will help the  
19 trier of fact to understand the evidence or to determine a fact in issue;

20 (2) The testimony is based on sufficient facts or data;

21 (3) The testimony is the product of reliable principles and methods; and

22 (4) The expert has reliably applied the principles and methods to the facts of the  
23 case.

24 2. An expert may base an opinion on facts or data in the case that the expert has  
25 been made aware of or personally observed. If experts in the particular field would  
26 reasonably rely on those kinds of facts or data in forming an opinion on the subject, they  
27 need not be admissible for the opinion to be admitted. But if the facts or data would  
28 otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only  
29 if their probative value in helping the jury evaluate the opinion substantially outweighs  
30 their prejudicial effect.

31 3. (1) An opinion is not objectionable just because it embraces an ultimate issue.

32 (2) In a criminal case, an expert witness must not state an opinion about whether  
33 the defendant did or did not have a mental state or condition that constitutes an element  
34 of the crime charged or of a defense. Those matters are for the trier of fact alone.

35 4. Unless the court orders otherwise, an expert may state an opinion - and give the  
36 reasons for it - without first testifying to the underlying facts or data. But the expert may  
37 be required to disclose those facts or data on cross-examination.

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